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# Fax Cover Sheet

**Date:** 12 Jan 2004

<b>To:</b> Ryan Hardee	<b>From:</b> Rodney G. McDonald
<b>Application/Control Number:</b> 09/537,095	<b>Art Unit:</b> 1753
<b>Fax No.:</b> 703-836-1539	<b>Phone No.:</b> 571-272-1340
<b>Voice No.:</b>	<b>Return Fax No.:</b> (703) 872-9306
<b>Re:</b>	<b>CC:</b>
<input type="checkbox"/> <b>Urgent</b> <input type="checkbox"/> <b>For Review</b> <input type="checkbox"/> <b>For Comment</b> <input type="checkbox"/> <b>For Reply</b> <input checked="" type="checkbox"/> <b>Per Your Request</b>	

Comments:  
Office Action and Notice of Abandonment.

Number of pages 11 including this page

## STATEMENT OF CONFIDENTIALITY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/537,095	03/29/2000	Leroy A. Bartolomei	DSI-B-510	6812

7590

01/23/2003

DUANE MORRIS LLP  
1667 K STREET, N.W.  
SUITE 700  
WASHINGTON, DC 20006

EXAMINER

MCDONALD, RODNEY GLENN

ART UNIT

PAPER NUMBER

1753

DATE MAILED: 01/23/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Abandonment

Application No.  
09/537,095

Applicant(s)  
Bartolomei et al.

Examiner  
Rodney McDonald

Art Unit  
1753



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on Oct 30, 2001.

(a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.

(b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

(c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).

(d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

(a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).

(b) ☐ The submitted issue fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.

The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d) is \$ \_\_\_\_\_.

(c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

(a) ☐ Proposed new formal drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.

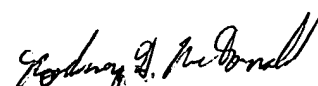
(b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

  
RODNEY G. McDONALD  
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
097537,095	03/29/00	BARTOLOMET	DSI-B-510

L. LAWTON ROGERS III  
510 KING STREET SUITE 400  
ALEXANDRIA VA 22314

IM31/1030

EXAMINER
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MCDONALD, R

ART UNIT	PAPER NUMBER
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1753

DATE MAILED: 10/30/01


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Commissioner of Patents and Trademarks

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# Office Action Summary

Application No. <b>09/537,095</b>	Applicant(s) <b>Bartolomei et al.</b>	
Examiner <b>Rodney McDonald</b>	Art Unit <b>1753</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-61 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 1753

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**DETAILED ACTION**

***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16, 30-39 and 45-48, drawn to a method of assembling a lamp including a step of coating, classified in class 204, subclass 192.26.
  - II. Claims 17-29, drawn to a method of depositing a layer of material on an array of substrates, classified in class 204, subclass 192.12.
  - III. Claims 40-44, drawn to a method of aligning a filament in a coated burner envelope, classified in class 313, subclass 9.
  - IV. Claims 49-54, coated lamp burner product, classified in class 362, subclass 362.
  - V. Claims 55-58, drawn to an apparatus for depositing on an array, classified in class 204, subclass 298.27.
  - VI. Claims 59-61, drawn to an apparatus for determining the optimum position of the filament through measuring, classified in class 313, subclass 10.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions I and II have different effects in that Group I relates to assembling a lamp

Art Unit: 1753

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including a step of coating and Group II relates to coating an array of substrates which are patentably independent.

4. Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different effects in that Group I relates to assembling a lamp including coating and Group III relates to aligning a filament which are patentably independent.

5. Inventions I and IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP. § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as performing the coating after the sealing.

6. Inventions I and V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP. § 806.05(e)). In this case the process can be practiced by another materially different apparatus or by hand such as utilizing a stationary substrate with moving source to coat the substrate.

Art Unit: 1753

7. Inventions I and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different effects because Group I relates to a method of coating and Group VI relates to an apparatus for aligning a filament which are distinct independent inventions.

8. Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different modes of operation in that Group II is coating an array of substrates and Group III is aligning a filament which are independently distinct.

9. Inventions II and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different effects because Group II coats an array of substrates while Group IV is a single product not an array of products.

10. Inventions II and V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP. § 806.05(e)). In this case the apparatus as



Art Unit: 1753

claimed can be used to practice another and materially different process such as coating polygonal objects instead of elongated rods.

11. Inventions II and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different effects because Group II is coating an array and Group VI is for aligning a filament.

12. Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different functions because Group III is a method for aligning and Group IV is a product which are patentably distinct inventions.

13. Inventions III and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different functions in that Group III is a method for aligning and Group V is an apparatus for coating.

14. Inventions III and VI are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice

Art Unit: 1753

another and materially different process. (MPEP. § 806.05(e)). In this case the process as claimed can be practiced by aligning the filament by hand.

15. Inventions IV and V are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP. § 806.05(g)). In this case the product can be made by another and materially different apparatus such as running through an endless conveyor system to coat.

16. Inventions IV and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different effects because Group IV is a product and Group VI is an apparatus for aligning which are distinct inventions.

17. Inventions V and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP. § 806.04, MPEP. § 808.01). In the instant case the different inventions have different effects because Group V is an apparatus for coating and Group VI is an apparatus for aligning which are distinct inventions.

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Art Unit: 1753

18. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

19. Due to the complexity of restriction and the election of species requirements, applicants' representative was not contacted to request an oral election to the above restriction requirement.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

20. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

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Art Unit: 1753

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney McDonald whose telephone number is (703) 308-3807. The examiner can normally be reached on Monday through Thursday from 8:00 to 5:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen, can be reached on (703) 308-3322. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



RODNEY G. MCDONALD  
PRIMARY EXAMINER

RM

10-26-01